

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Informal Complaints Filed By)	
Independent Payphone Service)	File Nos. IC-98-42853, et al.
Providers Against Various)	
Local Exchange Carriers)	
Seeking Refunds Of End User)	
Common Line Charges)	

ORDER

Adopted: March 15, 2005

Released: March 25, 2005

By the Deputy Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Order, we require each informal complainant covered by this Order to submit notice of intent to proceed on or before April 22, 2005, if it wishes to pursue its claims, and set a final deadline of September 9, 2005 for converting End User Common Line (“EUCL”) informal complaints¹ into formal complaints.² Further, in order to facilitate a more efficient conversion process, we set forth requirements for filing such formal complaints.

II. BACKGROUND

2. In these informal complaints, independent payphone providers (“IPPs”) allege that the defendant local exchange carriers (“LECs”) improperly assessed EUCL charges, in violation of the Commission’s rules and sections 201(b) and 202(a) of the Communications Act, as amended (the “Act”).³ In a series of orders issued since the filing of these informal complaints, the Bureau has continued to extend the six-month period for converting the informal complaints into formal

¹ The informal complaints covered by this Order are those that are subject to the Common Carrier Bureau’s Order of September 10, 1999. *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 16 FCC Rcd 3669 (CCB 1999) (“*First Waiver Order*”).

² Ordinarily, section 1.718 requires that a formal complaint must be filed within six months of the carrier’s response to the informal complaint if the formal complaint is to relate back for statute of limitations purposes to the filing of the informal complaint. See 47 C.F.R. § 1.718(a).

³ 47 U.S.C. §§ 201(b) and 202(a); 47 C.F.R. §§ 69.1 *et seq.*

complaints.⁴ Pursuant to the most recent Enforcement Bureau order, informal complaints were required to be converted by April 22, 2005, to benefit from the relation back rule outlined in section 1.718.⁵

3. On April 26, 2002, thirteen IPPs converted their pending informal complaints and filed formal complaints challenging the LECs' imposition of the EUCL charge. On November 19, 2002, the Commission issued an order concluding the liability phase of the proceeding, finding that the defendant LECs violated Section 201(b) of the Act and Part 69 of the Commission's rules by improperly assessing EUCL charges on IPP payphones and that the Complainants are entitled to recover damages.⁶ In addition, the Commission declined to toll the Section 415(b) two-year statute of limitations.⁷ Accordingly, the Commission determined that each Complainant is entitled to recover EUCL charges paid on its payphones beginning two years prior to the date on which the Complainant filed an informal complaint with the Commission. On April 30, 2004, the D.C. Circuit affirmed the Commission's *Liability Order* in all respects.⁸ Since the D.C. Circuit's ruling, several of the formal complainants have settled and the rest are in settlement discussions.

4. In addition to the thirteen formal complaints, thousands of virtually identical informal complaints are pending, similarly challenging the imposition of EUCL charges on IPPs. It is these informal complaints that are the subject of this Order. Although many informal complaints have settled, we estimate that around 1500 such informal complaints remain pending. We further understand that settlement discussions are underway among a number of informal complainants and defendants.

⁴ See *First Waiver Order*, 16 FCC Rcd at 3672, ¶ 8; *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 2115 (EB 2002) ("*Second Waiver Order*"); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 17 FCC Rcd 14759 (EB 2002) ("*Third Waiver Order*"); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 18 FCC Rcd 12047 (EB 2003) ("*Fourth Waiver Order*"); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 19 FCC Rcd 9066 (EB 2004) ("*Fifth Waiver Order*"); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 19 FCC Rcd 19480 (EB 2004) ("*Sixth Waiver Order*"); *Informal Complaints Filed By Independent Payphone Service Providers Against Various Local Exchange Carriers Seeking Refunds of End User Common Line Charges*, Order, 2004 WL 2973797, File Nos. IC-98-42853, *et al.*, DA No. 04-4022 (EB Rel. Dec. 22, 2004) ("*Seventh Waiver Order*").

⁵ *Seventh Waiver Order*, 2004 WL 2973797 (EB 2004).

⁶ *Communications Vending Corporation of Arizona, Inc., et al. v. Citizens Communications Company f/k/a Citizens Utility Company and Citizens Telecommunications Company d/b/a Citizens Telecom, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 24201, 24208 (2002) ("*Liability Order*") at ¶ 15.

⁷ *Id.* at 24227, ¶ 64.

⁸ *Communications Vending Corporation of Arizona, Inc., et al. v. FCC, et al.*, 365 F.3d 1064 (D.C. Cir. 2004).

III. DISCUSSION

A. Informal Complainants Must Provide Notice of Intent to Convert.

5. Discussions with a number of parties to these informal complaints reveal that settlement is hampered by the fact that some defendants are unable to ascertain the magnitude of the active claims pending against them. Although many complainants, particularly those represented by counsel, have initiated settlement discussions, we understand that literally hundreds of informal complainants have never contacted defendants in an effort to obtain payment (despite the fact that the legal issues have largely been decided). For some of these complainants, it may be that there is no reason to pursue their complaints. For example, the November 2002 *Liability Order* decision with regard to statute of limitations may have effectively nullified any potential damages recovery for many informal complainants.⁹ We agree that ascertaining the number and scope of complaints that will be pursued against each defendant will facilitate the informal resolution of these claims.

6. Therefore, we require every informal complainant that intends to pursue its informal complaint(s) to submit a notice to that effect, as described below. In letters submitted to the Commission, the parties differ as to the timing of the notice requirement. Counsel for a large group of complainants requests that we give the informal complainants 90 days to submit such notice.¹⁰ Verizon, SBC, Qwest and Century Tel, on the other hand, suggest that we require that complainants submit notice of intent to proceed by April 22, 2005, or about 30 days from the release of this order.¹¹ Counsel for complainants contends that 30 days does not leave sufficient time to finalize resolution of settlements, given the number of individual complaints involved.¹²

7. Although there are a large number of informal complaints pending, the liability issues common to all these complaints were conclusively decided in April 2004. Thus, in our view, counsel has had adequate time to notify individual complainants of their rights and undertake settlement efforts on their behalf. In addition, we note that in our December 22, 2004 order, we

⁹ See *Liability Order*, 17 FCC Rcd at 24227, ¶ 64 (“We, therefore, agree with Defendants that Section 415 limits Complainants’ claims for recovery to those charges levied no earlier than two years prior to the date Complainants filed their informal complaints. Because the charges at issue ceased on April 15, 1997, we can only award damages where informal complaints were filed by April 15, 1999”).

¹⁰ Letter from Katherine J. Henry, counsel for complainants, to Radhika V. Karmarkar, Enforcement Bureau, File Nos. IC-98-42853, *et al.* (dated Feb. 17, 2005) at 6 (“February 17 Dickstein Letter”).

¹¹ See Letter from Sherry A. Ingram, counsel for Verizon, to Rosemary McEnery, Enforcement Bureau, File Nos. IC-98-42853, *et al.*, (dated Feb. 17, 2005) (“February 17 Verizon Letter”) at 1; Letter from Davida Grant, counsel for SBC, to Radhika V. Karmarkar, Enforcement Bureau, File Nos. IC-98-42853, *et al.*, (dated Feb. 25, 2005) (“SBC Letter”) at 3; Letter from Daphne E. Butler, counsel for Qwest, to Radhika V. Karmarkar, Enforcement Bureau, File Nos. IC-98-42853, *et al.*, (dated Feb. 25, 2005) (“Qwest Letter”) at 1; Letter from Benjamin H. Dickens, Jr. to Radhika V. Karmarkar, Enforcement Bureau, File Nos. IC-98-42853, *et al.*, (dated Feb. 25, 2005) (“CenturyTel Letter”) at 1.

¹² Letter from Albert H. Kramer, counsel for complainants, to Radhika V. Karmarkar, Enforcement Bureau, File Nos. IC-98-42853, *et al.* (dated Feb. 25, 2005) at 3-4 (“February 25 Dickstein Letter”).

indicated that informal complainants would be required to provide such notice of intent to proceed within 30 days of this order (or by April 22, 2005) if they wished to pursue their claims.¹³ Moreover, the notice submission described below is not burdensome and is designed merely to apprise defendants of the universe of claims pending against them. Therefore, we require every informal complainant to notify the Commission no later than April 22, 2005 if it intends to pursue its claim for refund of unlawful EUCL charges. ***Any informal complainant that does not submit such notice on or before April 22, 2005 waives its right to convert its existing informal complaint into a formal complaint.*** Once such notice is provided, all parties may take the opportunity to resolve the claims before being required to litigate formal complaints.

8. Notice may be made by logging onto <http://www.fcc.gov/eb/eucl> and clicking on “Complainant Notification Form.” In order to satisfy the notice requirement, complainants must enter basic identifying information about the complaint, including the date it was filed, the complaint number, the defendant, and complainant’s contact information.¹⁴ If a complainant filed more than one informal complaint, the complainant need only enter its contact information once but will be required to enter the informal complaint number, date the complaint was filed, and defendant name for each complaint. Though defendant names may have changed, given the passage of time, we suggest that complainants enter the defendant named on their original complaint.¹⁵ The EUCL electronic notification web address will not allow submissions after midnight (EST) on that day. An alphabetical list, by defendant, of all notifications will be publicly available and updated daily. This list will be accessible by logging onto the same web address: <http://www.fcc.gov/eb/eucl> and clicking on “Defendant Notification List.”

B. We Establish a Final Deadline for Converting to Formal Complaints.

9. In its February 17, 2005 letter, Verizon requests that the Commission require complainants to convert their informal complaints into formal complaints within 20 days of filing their notice of intent to proceed.¹⁶ SBC suggests that conversion be required within three months,¹⁷ and Qwest and CenturyTel recommend that conversion be required within five months of the date of this order.¹⁸ Counsel for a large group of complainants, on the other hand, proposes that the Bureau set the conversion date no earlier than October 22, 2005, or approximately seven months from the date of this order.¹⁹ Counsel for these complainants contends that further time is needed to

¹³ See *Seventh Waiver Order* at ¶ 3.

¹⁴ Attorneys representing large groups of complainants (*i.e.*, more than 50) may contact Commission staff at 202-418-7330 to discuss the possibility of submitting notices via disk.

¹⁵ While electronic notice is strongly preferred, notice of intent to proceed may be made by sending the information set forth in Paragraph 8 by certified mail (postmarked no later than April 22, 2005) to the following address: EB/MDRD, Federal Communications Commission, 445 12th Street, S.W., Room 4-C366, Washington, D.C. 20554, Attention: EUCL Notice.

¹⁶ See February 17 Verizon Letter at 2.

¹⁷ See SBC Letter at 4.

¹⁸ See Qwest Letter at 2; CenturyTel Letter at 2.

¹⁹ February 17 Dickstein Letter at 7.

continue settlement negotiations before undertaking the process of preparing formal complaints.²⁰ Preparing the final complaints – even pursuant to streamlined procedures – will be time-consuming, according to counsel for these complainants, and establishing October 22 as the final deadline will enable these complainants to file their final complaints on a staggered basis over a period of time.²¹

10. We estimate that of the 3000 informal EUCL complaints originally filed, approximately 1500 have settled (or are in the process of settling) and approximately 1500 remain pending. We have no way of knowing how many of the remaining complainants have been engaged in settlement discussions or have even made an effort to pursue their claim(s) after the Commission issued the *Liability Order* in related complaint proceedings.²² Nor do we know at this point, more significantly, how many of these complainants will seek to pursue their complaints at all. Once those informal complainants that intend to pursue their claims identify themselves by submitting the notice described above, we expect that any parties who wish to settle their claims can do so within a reasonable period of time.

11. Therefore, for those informal complainants that timely submit the requisite notice by April 22, 2005, we further extend the deadline for converting informal complaints to formal complaints until ***September 9, 2005***. This should provide sufficient time for parties to engage in informal resolution and, if such efforts are unsuccessful, to prepare formal complaints pursuant to the procedures set forth below. ***This is the final deadline for conversion. Any informal complainant (having submitted the requisite notice) must file a formal complaint on or before September 9, 2005, or lose its right to proceed.***

C. We Establish a Streamlined Process for filing Formal Complaints and Answers.

12. Because the critical legal issues raised by these informal complaints have been definitively addressed, it is not necessary to require parties to file lengthy formal complaints and answers complete with legal analyses. Under the unique circumstances here, we expedite and streamline the process for converting these informal complaints into formal complaints to minimize the burden and expense on all parties and the Commission.²³ First, pursuant to section 1.722(c) of the Commission's rules,²⁴ we will bifurcate complaint proceedings and determine damages in a separate proceeding.²⁵ Therefore, the issue of damages should not be addressed in either the

²⁰ *Id.* at 7.

²¹ *Id.*

²² *Liability Order*, 17 FCC Rcd 24201.

²³ The Commission has discretion to waive any provision of the rules of practice upon its own motion. 47 C.F.R. § 1.3.

²⁴ 47 C.F.R. § 1.722(c).

²⁵ At the initiation of the damages proceeding, each complainant will be directed to provide its respective defendant(s) a detailed computation of each and every category of damages for which recovery is sought, and produce copies of all relevant documents and materials that support such computation. Thereafter, defendants will be required to respond specifically to the complainant's computations in writing and produce copies of all documents, data compilations and other things in the defendant's possession, custody, or control that are relevant

complaint or answer. Second, we waive the requirements in sections 1.720-1.723 of the Commission's rules²⁶ setting forth the requirements for filing formal complaints, *except* as follows:

13. 1.721(a)(1) A formal complaint shall contain the name of each complainant and defendant;

14. 1.721(a)(2) The occupation, address and telephone number of each complainant and, to the extent known, each defendant.

15. 1.721(a)(3) The name, address and telephone number of complainant's attorney, if represented by counsel.

16. 1.721(a)(8) Certification that the complainant has, in good faith, discussed or attempted to discuss the possibility of settlement with each defendant prior to the filing of the formal complaint. Such certification shall specify the efforts made to obtain payment from the defendant since April 2004 and briefly summarize all additional steps taken to resolve the dispute prior to the filing of the formal complaint.

17. 1.721(a)(12) A completed Formal Complaint Intake Form. A sample Formal Complaint Intake Form is attached at Appendix A.

18. 1.721(a)(13) A declaration, under penalty of perjury, by the complainant or complainant's counsel describing the amount, method, and date of the complainant's payment of the filing fee required under § 1.1106 and the complainant's 10-digit FCC Registration Number. The fee as of the date of this order is \$180.00 per complaint. 47 C.F.R. § 1.1106. Complainants must check the regulations, however, before filing, as this fee is updated periodically.

19. 1.721(a)(14) A certificate of service.

20. 1.721(a)(15) An FCC Registration Number as required under Part 1, Subpart W of the Commission's rules. 47 C.F. R. §§ 1.8001-1.8004. Submission of a complaint without the FCC Registration Number as required by Part 1, Subpart W will result in dismissal of the complaint.

21. In lieu of strict compliance with section 1.721(a)(4)-(5) of the Commission's rules,²⁷ the complaint must include a statement that complainant was assessed EUCL charges by defendant, and paid those charges, prior to April 15, 1997.²⁸ If a different entity (or an entity with a different name) was assessed and paid the EUCL charge, the complaint should set forth the name and address of the entity that was assessed and paid the EUCL charge, the relationship of complainant to that entity and documents sufficient to prove complainant's right to sue on behalf of the entity that paid the EUCL charge. Further, the complaint must state the date on which the complainant filed an

to that complainant's claim of damages or are likely to bear significantly on any claim or defense. For this reason, this order does not address suggestions in letters from the parties relating to the damages phase of this litigation.

²⁶ 47 C.F.R. §§ 1.720-1.723.

²⁷ 47 C.F.R. §§ 1.721(a)(4)-(5).

²⁸ See *supra* n.9.

informal complaint with the Commission, and attach a copy of such informal complaint.

22. In addition, we waive the requirements of sections 1.724(c), (f), (i), (j), and (k) of the Commission's rules²⁹ with regard to answers.

23. Finally, we waive the requirements of section 1.735(d) of the Commission's rules³⁰ to the extent it requires service by hand delivery and permit complainants to serve defendants by overnight mail.

24. All other rules relating to formal complaints apply in their entirety, including sections 1.725-1.736 of the Commission's rules.³¹

IV. ORDERING CLAUSES

25. ACCORDINGLY, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that on or before April 22, 2005, informal complainants submit notice of intent to proceed as specified above. Any informal complainant that does not provide such notice waives its right to convert its informal complaint into a formal complaint for damages.

26. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that section 1.718(a) of the Commission's rules, 47 C.F.R. § 1.718(a), IS HEREBY WAIVED, with regard to those IPP EUCL informal complaints about which notice described herein has been timely filed, and the deadline for the conversion and filing of these informal complaints into formal complaints is hereby extended to September 9, 2005. This waiver is effective as of the release of this Order.

²⁹ 47 C.F.R. §§ 1.724(c),(f), (i),(j), and (k).

³⁰ 47 C.F.R. § 1.735(d).

³¹ 47 C.F.R. §§1.724-1.736.

27. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the provisions of sections 1.720-1.724 and 1.735 of the Commission's rules, 47 C.F.R. §§ 1.720-1.724 and 1.735 ARE HEREBY WAIVED EXCEPT AS EXPLICITLY SET FORTH ABOVE. This waiver is effective as of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Christopher N. Olsen
Deputy Chief, Enforcement Bureau

Appendix A

FCC 485
July 1999

Federal Communications Commission
Washington, D. C. 20554

Approved by OMB
3060-0411
Expires 06/30/2002
Avg. Est. Burden for
Respondent: 30 minutes

FORMAL COMPLAINT INTAKE FORM

1. Case Name:
2. Complainant's Name, Address, Phone and Facsimile Number, e-mail address (if applicable):
3. Defendant's Name, Address, Phone and Facsimile Number (to the extent known), e-mail address (if applicable):
4. Complaint alleges violation of the following provisions of the Communications Act of 1934, as amended:

Answer (Y)es, (N)o or N/A to the following:

- _____ 5. Complaint conforms to the specifications prescribed by 47 C.F.R. Section 1.734.
- _____ 6. Complaint complies with the pleading requirements of 47 C.F.R. Section 1.720.
- _____ 7. Complaint conforms to the format and content requirements of 47 C.F.R. Section 1.721, including but not limited to:
- _____ a. Complaint contains a complete and fully supported statement of facts, including a detailed explanation of the manner in which the defendant is alleged to have violated the provisions of the Communications Act of 1934, as amended, or Commission rules or Commission orders.
- _____ b. Complaint includes proposed findings of fact, conclusions of law, and legal analysis relevant to the claims and arguments set forth in the Complaint.
- _____ c. If damages are sought in this Complaint, the Complaint comports with the specifications prescribed by 47 C.F.R. Section 1.722(a), (c).
- _____ d. Complaint contains a certification that complies with 47 C.F.R. Section 1.721(a)(8), and thus includes, among other statements, a certification that: (1) complainant mailed a certified letter outlining the allegations that formed the basis of the complaint it anticipated filing with the Commission to the defendant carrier; (2) such letter invited a response within a reasonable period of time; and (3) complainant has, in good faith, discussed or attempted to discuss, the possibility of settlement with each defendant prior to the filing of the formal complaint.
- _____ e. A separate action has been filed with the Commission, any court, or other government agency that is based on the same claim or the same set of facts stated in the Complaint, in whole or in part. If yes, please explain:
- _____ f. Complaint seeks prospective relief identical to the relief proposed or at issue in a notice-and-comment proceeding that is concurrently before the Commission. If yes, please explain:
- _____ g. Complaint includes an information designation that contains:
- _____ (1) A complete description of each document, data compilation, and tangible thing in the complainant's possession, custody, or control that is relevant to the facts alleged with particularity in the Complaint, including: (a) its date of preparation, mailing, transmittal, or other dissemination, (b) its author, preparer, or other source, (c) its recipient(s) or intended recipient(s), (d) its physical location, and (e) its relevance to the matters contained in the Complaint; and
- _____ (2) The name, address, and position of each individual believed to have firsthand knowledge of the facts alleged with particularity in the Complaint, along with a description of the facts within any such individual's knowledge; and
- _____ (3) A complete description of the manner in which the complainant identified all persons with information and designated all documents, data compilations, and tangible things as being relevant to the dispute, including, but not limited to, identifying the individual(s) that conducted the information search and the criteria used to identify such persons, documents, data compilations, tangible things, and information.
- _____ h. Attached to the Complaint are copies of all affidavits, tariff provisions, written agreements, offers, counter-offers, denials, correspondence, documents, data compilations, and tangible things in the complainant's possession, custody, or control, upon which the complainant relies or intends to rely to support the facts alleged and legal arguments made in the Complaint.
- _____ i. Certificate of service is attached.
- _____ j. Verification of payment of filing fee in accordance with 47 C.F.R. Section 1.1105(i)(c) is attached.
- _____ 8. If complaint is filed pursuant to 47 U.S.C. Section 271(d)(6)(B), complainant indicates therein whether it is willing to waive the 90-day complaint resolution deadline.
- _____ 9. All reported FCC orders relied upon have been properly cited in accordance with 47 C.F.R. Sections 1.14 and 1.720(i).

- _____ 10. Copy of Complaint has been served by hand-delivery on either the named defendant or one of the defendant's registered agents for service of process in accordance with 47 C.F.R. Section 1.47 and 47 C.F.R. Section 1.735(d).
- _____ 11. If more than ten pages, the Complaint contains a table of contents and summary, as specified in 47 C.F.R. Section 1.49(b) and (c).
- _____ 12. The correct number of copies required by 47 C.F.R. Section 1.51(c), if applicable, and 47 C.F.R. Section 1.735(b) have been filed.
- _____ 13. Complaint has been properly signed and verified in accordance with 47 C.F.R. Section 1.52 and 47 C.F.R. Section 1.734(c).
- _____ 14. If Complaint is by multiple complainants, it conforms with the requirements of 47 C.F.R. Section 1.723(a).
- _____ 15. If Complaint involves multiple grounds, it complies with the requirements of 47 C.F.R. Section 1.723(b).
- _____ 16. If Complaint is directed against multiple defendants, it complies with the requirements of 47 C.F.R. Section 1.735(a)-(b).
- _____ 17. Complaint conforms to the specifications prescribed by 47 C.F.R. Section 1.49.

Instructions

1. This form must be completed by the Complainant.
2. Submit a completed intake form with any formal complaint to indicate that the complaint satisfies all procedural and substantive requirements of the Communications Act of 1934, as amended, and applicable FCC rules.
3. The original form must be filed with the original complaint and a copy of the form attached to each copy of the complaint that is either filed with the Commission or served on the opposing party.

Notice: Sections 206 to 209 of the Communications Act of 1934, as amended, provide the statutory framework for our current rules for resolving formal complaints filed against common carriers. Section 208(a) authorizes complaints by any person "complaining of anything done or omitted to be done by any common carrier" subject to the provisions of the Act. Section 208(a) specifically states that "it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper."

Pursuant to 47 C.F.R. Section 1.721(a)(12), a completed intake form must be submitted with any formal complaint to indicate that the complaint satisfies the applicable procedural and substantive requirements under the Communications Act of 1934, as amended, and the FCC's rules. The information will be used by the Commission to determine the sufficiency of the complaint and aid its processing by the staff.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0411.

We have estimated that each response to this collection of information will take, on average, 30 minutes. Our estimate includes the time to read the instructions, look through relevant records, gather and maintain the required data, and actually complete and review the intake form. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, D.C. 20554, Paperwork Reduction Project (3060-0411). We also will accept your comments via Internet if you send them to jboley@fcc.gov. Please DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

The foregoing Notice is required by the Privacy Act of 1974, P.L. 93-579, December 31, 1994, 5 U.S.C. 552a(e)(3), and the Paperwork Reduction Act of 1995, P.L. 104-13, 44 U.S.C. Section 3501.

The Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information that you provide to determine the sufficiency of the complaint and to assist in processing and resolving the complaint. If we believe there may be a violation or potential violation of a Federal or state statute or regulation, rule, or order issued by a Federal or state agency, your form may be referred to the appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your Form may be disclosed to the Department of Justice, court, or other adjudicative body when: (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the Federal government, the taxpayer identification number (such as your social security number) and other information you provide also may be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies, and/or your employer to offset your salary, IRS tax refund, or other payments to collect that debt. The Commission also may provide this information to those agencies through the matching of computer records where authorized.

FCC Form 485 - Instructions
July 1999